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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/997,374

11/29/2001

Michael J. Heller

267/242

4021

34263

7590

06/03/2004

O'MELVENY & MEYERS
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EXAMINER

FREDMAN, JEFFREY NORMAN

ART UNIT

PAPER NUMBER

1634

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Response to Rule 312 Communication

Application No.

09/997,374

Applicant(s)

HELLER, MICHAEL J.

Examiner

Jeffrey Fredman

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 07 October 2003 under 37 CFR 1.312 has been considered, and has been:

a) ☐ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.


Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☒ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

The benefit claim filed on October 7, 2003 (and October 10, 2003), which has an original certificate of mailing on May 21, 2002, was not entered because the required reference was not timely filed within the time period set forth in 37 CFR 1.78(a)(2) or (a)(5). If the application is an application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a nonprovisional application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the reference to the prior application must be made during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). If applicant desires priority under 35 U.S.C. 120 based upon a previously filed application, applicant must file a petition for an unintentionally delayed benefit claim under 37 CFR 1.78(a)(3) or (a)(6). The petition must be accompanied by: (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted); (2) a surcharge under 37 CFR 1.17(t); and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.


GARY BENZION, PhD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1637


Jeffrey Fredman
Primary Examiner
Art Unit: 1637